

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

SPORTS SHINKO CO., LTD.,

Plaintiff,

vs.

QK HOTEL, LLC, et al.,

Defendants,

and

FRANKLIN K. MUKAI, et al.,

Third-Party Plaintiffs,

vs.

SPORTS SHINKO (USA) CO., LTD.,  
et al.,

Third-Party Defendants,

and

SPORTS SHINKO (HAWAII) CO.,  
LTD., et al.,

Third-Party Defendants/  
Counterclaimants,

vs.

QK HOTEL, LLC, et al.,

Third-Party Counterclaim  
Defendants.

AND CONSOLIDATED CASE

CV 04-00124 ACK-BMK

CV 04-00127 ACK-BMK

CONSOLIDATED CASES

DECLARATION OF  
ROBERT A. MARKS

DECLARATION OF ROBERT A. MARKS

Pursuant to 28 U.S.C. § 1746, ROBERT A. MARKS states as follows:

1. I am an attorney licensed to practice law before this court.

2. I am counsel for defendants, counterclaimants and third party plaintiffs QK Hotel, LLC, OR Hotel, LLC, and KG Holdings, LLC in these consolidated actions:

3. I have reviewed the attached memorandum of law. All facts set forth therein are true to the best of my knowledge, recollection and belief.

4. Attached and marked exhibit14 is true and correct copies of the Motion for Partial Summary Judgment, together with the Concise Statement of Facts and exhibits 3, 5 and 6, filed by the KG Parties in CV Nos. 04-00124 ACK-BMK and 04-00127 ACK-BMK on May 10, 2007. Because parts of this exhibit are marked “confidential” by SS, pursuant to the Amended Stipulated Protective Order, SS’s counsel will make arrangements for this exhibits to be filed under seal. I will arrange for a copy of Exhibit 14 to be delivered to the Court’s chambers.

5. Attached and marked exhibit 15 are true and correct copies of documents produced by Grant Thornton LLP on May 10, 2007 pursuant to subpoena. These documents were marked by Grant Thornton as Bates Nos. GT037983-988 and GT38047-050 and GT38052. These same documents were attached to SS’s memorandum in opposition to this motion as exhibit 5. Because this exhibit was marked “confidential,” pursuant to the Amended Stipulated Protective Order, SS’s counsel will make arrangements for these exhibits to be

filed under seal. I will arrange for a copy of Exhibit 15 to be delivered to the Court's chambers.

6. Attached and marked exhibit 16 is an excerpt of the Form 10-K filed by The Goldman Sachs Group, Inc. with the Securities and Exchange Commission in February 2007 for the fiscal year ending November 24, 2006. I downloaded this exhibit from [http://www2.goldmansachs.com/our\\_firm/investor\\_relations/](http://www2.goldmansachs.com/our_firm/investor_relations/).

7. Attached and marked exhibit 17 is a true and correct copy of a letter that I sent to John E. Porter, Esq., counsel for Goldman Sachs (Japan), Ltd. and Shigeki Kiritani on January 25, 2006 and Mr. Porter's response to me dated January 26, 2006.

8. Attached and marked exhibit 18 is a certified copy of a Petition to Commence Case Ancillary to Foreign Proceeding Under 11 USC § 304 filed on November 25, 2002 in In Re: Sports Shinko Kabushiki Kaisha, Debtor, Bankr. D. Hawaii AN No. 02-04131. I understand that "Sports Shinko Kabushiki Kaisha" is the same entity as Sports Shinko Co., Ltd., the plaintiff in CV Nos. 04-00124 ACK-BMK and 04-00127 ACK-BMK.

I declare under penalty of perjury that the foregoing is true and correct.

DATED: Honolulu, Hawaii, May 21, 2007.

/s/ Robert A. Marks  
ROBERT A. MARKS